

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

OLC 76-1034/a

6 MAY 1976

Mr. James M. Frey
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Frey:

This is in response to your letter requesting this Agency's views on H.R. 12729, a bill "To amend the Budgeting and Accounting Act, 1921, to affirm the authority of the Comptroller General to have access to any books, documents, papers, or records of any Federal department or establishment for managerial and operational as well as for fiscal reviews and evaluations."

This bill does not appear to grant the Comptroller General additional statutory authority beyond that now afforded under section 313 of the Budgeting and Accounting Act of 1921 (31 U.S.C. 54) to gain access to information from Federal agencies. Section 313 of the Budgeting and Accounting Act gives the Comptroller General authority to require all Federal "departments and establishments" to furnish "such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices" as the Comptroller General may from time to time require. The Comptroller General, or his authorized agent, "shall, for the purposes of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department or establishment," as necessary to secure information from those agencies, without specific restriction. The Comptroller General's authority under this statutory provision is not limited to documents, books, etc. "pertaining to the receipt, disbursement, or application of public funds" as can be inferred from the language of H.R. 12729.

H.R. 12729 would amend section 313 of the Budgeting and Accounting Act by making this blanket authority of the Comptroller General to obtain information from Federal agencies specifically available to the GAO when conducting congressionally-initiated studies under section 204 of the Legislative Reorganization Act of 1970, and when conducting audits of Government agencies under section 117 of the Accounting and



Auditing Act of 1950. The provisions of section 313 of the Budgeting and Accounting Act operate independently of the Legislative Reorganization Act and the Accounting and Auditing Act. Thus, the amending language in H.R. 12729 would seem to operate as an affirmation of a policy statement rather than a provision granting new statutory authority to the GAO.

The GAO has not conducted any audits of the CIA since 1961, and in July 1962, in conjunction with the House Armed Services Committee, determined that audits conducted under necessary security limitations were not of sufficient value. The Agency has relied on the special statutory authorities granted under the National Security Act of 1947 and the Central Intelligence Agency Act of 1949, in working out proper security arrangements for outside auditing or review of Agency procedures and activities, specifically: section 102(d) of the National Security Act placing responsibility for protection of intelligence sources and methods from unauthorized disclosure with the Director of Central Intelligence; section 5(a) of the CIA Act authorizing the CIA to receive from and transfer appropriated funds to other Government agencies without regard to other laws restricting such transfers; section 6 of the CIA Act exempting the CIA from other laws requiring publication of organizational, financial, and personnel matters; and section 8 of the CIA Act, granting the CIA authority to expend appropriated funds as necessary, to be accounted for solely on the certificate of the Director.

It is the firm position of this Agency that these provisions of law afford sufficient and fully justifiable grounds from which to argue that outside auditing and review of CIA activities and operations must only be undertaken under special conditions and be based on particular agreements. Although it is my impression that H.R. 12729 does not in fact grant the GAO increased statutory authority with which to seek access to CIA records and information, if enacted, it could be so cited and could pose practical problems. Since the bill appears essentially superfluous and somewhat misleading, this Agency would be opposed to enactment of H.R. 12729.

Sincerely,

SIGNED

Legislative Counsel

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